

## Lahontan Regional Water Quality Control Board

John Shaffer  
Truckee-Donner Recreation and Park District  
8924 Donner Pass Road  
Truckee, CA 96161  
[jshaffer@tdrpd.org](mailto:jshaffer@tdrpd.org)

### **Board Order No. R6T-2016-XXXX, Clean Water Act Section 401 Water Quality Certification for the Truckee-Donner Recreation and Park District Public Pier Replacement Project – Pier 3, Nevada County, WDID No. 6A291607006**

The California Regional Water Quality Control Board, Lahontan Region (Water Board) has received a complete Clean Water Act (CWA) section 401 Water Quality Certification (WQC) application, and application filing fee from John Shaffer (Applicant) for the Truckee-Donner Recreation and Park District (TDRPD) Public Pier Replacement Project – Pier 3 (Project) in Nevada County. The application received on July 21, 2016, was deemed complete on August 18, 2016. This WQC hereby assigns this Project the following reference number: Waste Discharge Identification (WDID) No. 6A291607006. Please use this reference number in all future correspondence regarding this Project.

Any person aggrieved by this action of the Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations (CCR), title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this WQC, except that if the thirtieth day following the date of this WQC falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

### **PROJECT DESCRIPTION**

**Table of Project Information:**

WDID Number	6A291607006
Applicant	<b>John Shaffer</b> <b>Truckee-Donner Recreation and Park District</b> <b>8924 Donner Pass Road</b> <b>Truckee, CA 96161</b> <a href="mailto:jshaffer@tdrpd.org">jshaffer@tdrpd.org</a>
Agent	Gavin Ball P.O. Box 313 Truckee, CA 96161 <a href="mailto:gavinball@itol.com">gavinball@itol.com</a>

**Table of Project Information (continued):**

Table C-1 Project Information (Continued)																															
Project Name	TDRPD Public Pier Replacement Project – Pier 3																														
Project Purpose and Description	The proposed Project involves removing the existing pier and replacing it with a new pier. Three 8-inch x 8-inch wood pilings, four 23-inch diameter steel drums, and one 6-inch x 6-inch wood post will be removed and replaced with four 10.75-inch diameter steel pilings.																														
Project Type	Outdoor Recreation																														
Project County	Nevada																														
Project Address or other Locating Information	Northwest side of Donner Lake																														
Location Latitude/Longitude	Latitude: 39.324547, Longitude: -120.280453																														
Hydrologic Unit	Hydrologic Unit, 635.00																														
Overall Project Area	0.012 acres																														
Receiving Water Name	Donner Lake																														
Water Body Type	Lake																														
Designated Beneficial Uses	MUN, AGR, FRSH, NAV, REC-1, REC-2, COMM, COLD, WILD, RARE, SPWN																														
Potential Water Quality Impacts	Discharge of materials and wastes into the lake from pier demolition and construction activities.																														
Area of Water(s) Within the Overall Project Area	0.012 acres																														
Impacts of Fill and Excavation to Waters of the State, including Waters of the U.S.	Water-body Type	Temporary			Permanent																										
					Physical Loss of Area			Degradation of Ecological Condition																							
		Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards	Acres	Linear Feet	Cubic Yards																					
	Lake	0.0003		0.45	0.00006		0.75																								
Federal Permit(s)	The Applicant has applied for U.S. Army Corps of Engineers (USACOE) authorization to proceed under Nationwide Permits 18 and 33, pursuant to CWA section 404.																														
Non-Compensatory Mitigation	Construction will occur under a lake level of 5,928 feet above mean sea level or lower to allow for dry operations. An erosion control fence will be installed around the side and downhill perimeter of the Project site. An amphibious vessel will be utilized, with all materials from the demolished pier contained within the vessel or on adjacent piers.																														
Compensatory Mitigation																															
	<table><tr><th colspan="7">Mitigation for Temporary Impacts</th></tr><tr><th>Aquatic Resource Type</th><th>Unit</th><th>Establishment</th><th>Re-establishment</th><th>Rehabilitation</th><th>Enhancement</th><th>Preservation</th></tr><tr><td>Lake</td><td>Acres</td><td></td><td>0.0003</td><td></td><td></td><td></td></tr></table>										Mitigation for Temporary Impacts							Aquatic Resource Type	Unit	Establishment	Re-establishment	Rehabilitation	Enhancement	Preservation	Lake	Acres		0.0003			
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Lake	Acres		0.0003																												
Repair and replacement: The old pier pilings will be removed to restore 13 square feet (0.0003 acres) of the lake bed.																															
Application Fee	\$200 (Low Impact Discharge)																														
Fees Received	\$200																														

## **CEQA COMPLIANCE**

The Water Board has determined that this Project is exempt from the California Environmental Quality Act (CEQA; Public Resources Code sections 21000, et seq.). In accordance with section 15302, the basis for CEQA exemption is "Replacement or Reconstruction." A Notice of Exemption (enclosed) will be filed with the State Clearinghouse concurrently with issuing this WQC.

## **WATER QUALITY CONTROL PLAN WASTE DISCHARGE PROHIBITIONS**

The Water Board has adopted a Water Quality Control Plan (Basin Plan) which, in Chapter 4.1, specifies the following discharge prohibitions:

1. *The discharge attributable to human activities, of any waste or deleterious materials to surface waters of the Truckee River Hydrologic Unit or Little Truckee River Hydrologic Unit is prohibited.*
2. *The discharge or threatened discharge attributable to human activities, of any waste to lands within the 100-year floodplain of the Truckee River, Little Truckee River, and their tributaries is prohibited.*

The Project has the potential to discharge waste (e.g., sediment, pier demolition debris, equipment fluids) to Donner Lake, a tributary of the Truckee River, and to lands within the 100-year floodplain of Donner Lake.

## **BASIN PLAN DISCHARGE PROHIBITION EXEMPTION CRITERIA AND FINDINGS**

1. The Water Board may grant exemptions to Prohibition 1, above, provided the following specific criteria are satisfied:
  - a. *The discharge of waste will not, individually or collectively, directly or indirectly, adversely affect beneficial uses.*

The Project will take place above the lake's water level and employ Best Management Practices (BMPs), including an erosion control perimeter fence. Since piling removal and installation will occur on a dry surface, discharges will not affect beneficial uses of the waters of Donner Lake.

- b. *There is no reasonable alternative to the waste discharge.*

The Project involves replacing pilings that must be located below the lake's Ordinary High Water Mark to serve its purpose. The primary Project activities that threaten to discharge waste (sediment) are removing the existing wooden pilings and steel drums, installing new steel pilings, and disturbance to the lakebed. The

Project employs removal and installation techniques that minimize the potential for associated waste discharges. The lakebed will also be returned to pre-project conditions. These and other measures reduce the potential for waste discharges to the maximum extent practicable. There is no reasonable alternative to the waste discharge.

- c. *All applicable and practicable control and mitigation measures have been incorporated to minimize potential adverse impacts to water quality and beneficial uses.*

The Project employs multiple BMPs and other control measures intended to minimize the potential for waste discharges that could adversely impact water quality and beneficial uses. Such measures include conducting Project activities when the lake level is below the Project area, establishing and maintaining a perimeter containment barrier, removing and properly disposing of all pier demolition debris, and maintaining all Project equipment in good working condition. Deploying and maintaining such BMPs and control measures will minimize potential adverse impacts to water quality and beneficial uses.

2. The Water Board may grant exemptions to Prohibition 2, above, for the repair, replacement, or relocation of existing structures, provided that the repair, replacement or relocation does not reduce or adversely affect the existing floodplain function. Prior to granting any such exemption, the Water Board shall require demonstration by the proposed discharger that all applicable and practicable control and mitigation measures have been incorporated into the project such that potential adverse impacts to water quality and beneficial uses are the minimum necessary to complete the project.

The Project is intended to replace the existing structures located at the site. No loss of floodplain function will occur in implementation of this Project. As noted in exemption findings for Prohibition 1, above, applicable BMPs will ensure adverse impacts of construction on water quality are minimized.

## **EXEMPTION GRANTED**

Resolution No. R6T-2015-0038 delegates to the Executive Officer the authority to grant an exemption to Basin Plan waste discharge prohibitions when the Basin Plan exemption conditions are met. As demonstrated above, the Project meets the conditions in the Basin Plan for granting an exemption. A notice of exemption will be posted on the Water Board website and distributed through an interested-persons mailing list, allowing at least 10 days for comments to be submitted. The Project is hereby granted an exemption to the above-cited waste discharge prohibitions.

## **SECTION 401 WATER QUALITY CERTIFICATION**

### **Authority**

Section 401 of the CWA (33 U.S.C., paragraph 1341) requires that any applicant for a CWA section 404 permit, who plans to conduct any activity that may result in discharge of dredged or fill materials to waters of the U.S., must provide to the permitting agency a certification that the discharge will be in compliance with applicable water quality standards of the state in which the discharge will originate. No section 404 permit may be granted (or valid) until such certification is obtained. The Applicant submitted a complete application and the fees required for WQC under section 401 for the Project. The Applicant has applied for USACOE authorization to proceed under Nationwide Permit Nos. 18 and 33 pursuant to CWA section 404.

CCR, title 23, section 3831(e) grants the Water Board Executive Officer the authority to grant or deny WQC for projects in accordance with CWA section 401. The Project qualifies for such WQC.

### **Standard Conditions**

Pursuant to CCR, title 23, section 3860, the following standard conditions are requirements of this WQC:

1. This WQC action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and CCR, title 23, section 3867.
2. This WQC action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license unless the pertinent WQC application was filed pursuant to CCR title 23, section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial WQC action must be conditioned upon total payment of the full fee required under CCR title 23, section 3833, unless otherwise stated in writing by the certifying agency.
4. Neither Project construction activities nor operation of the Project may cause a violation of the *Water Quality Control Plan for the Lahontan Region* (Basin Plan), may cause a condition or threatened condition of pollution or nuisance, or cause any other violation of the Water Code.
5. The Project must be constructed and operated in accordance with the Project described in the WQC application that was submitted to the Water Board. Deviation from the Project description constitutes a violation of the conditions upon which this WQC was granted. Any significant changes to this Project that would have a significant or material effect on the findings, conclusions, or conditions of this WQC, including Project operation, must be submitted to the Executive Officer for prior review and written approval.

6. This WQC is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any conditions contained in any other permit or approval issued by the state of California or any subdivision thereof may result in the revocation of this WQC and civil or criminal liability.
7. The Water Board may add to or modify the conditions of this WQC as appropriate to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the CWA, or as appropriate to coordinate the operations of this Project with other projects where coordination of operations is reasonably necessary to achieve water quality standards or protect the beneficial uses of water. Notwithstanding any more specific conditions in this WQC, the Project must be constructed and operated in a manner consistent with all water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the CWA.
8. This WQC does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under the California Endangered Species Act (Fish and Game Code sections 2050, et seq.) or the federal Endangered Species Act (16 U.S.C. sections 1531, et seq.). If a "take" will result from any act authorized under this WQC, the Applicant must obtain authorization for the take prior to construction or operation of the Project. The Applicant is responsible for meeting all applicable requirements of the Endangered Species Act for the Project authorized under this WQC.

### **Additional Conditions**

Pursuant to CCR title 23, section 3859(a), the following additional conditions are requirements of this WQC:

1. The Project construction must take place when Donner Lake levels are below an elevation of 5,928 feet above mean sea level.
2. Prior to initiating construction of the Project, the Applicant must provide documentation of whether there are any subsurface utilities in the area of construction. This can be accomplished by: (1) contacting all utilities (both public and private) that provide service in the area and documenting these contacts; (2) contacting Underground Service Alert, and documenting this contact; or (3) some other equivalent affirmative action to determine and document whether or not there are any subsurface utilities in the area of construction. The area of construction is defined as any area within the project boundaries where there will be excavation, construction of borings, or driving of piles or other structures into the subsurface. If subsurface utilities are located in the construction area, the Applicant must also provide a utility avoidance plan that will be followed during construction.

3. A copy of this WQC Order, a copy of the complete WQC application submitted to the Water Board, and the utility avoidance plan (if required by additional condition above) must be available at the Project site during construction of the Project.
4. To minimize impacts to water quality, an erosion control fence must be used during Project implementation to contain Project wastes. The control measures must be inspected and maintained as necessary to prevent discharge of sediment outside the containment area.
5. Construction equipment must be clean and free from oil, grease, and loose metal material and must be removed from service if necessary to protect water quality.
6. Debris, cement, concrete (or wash water therefrom), oil or other petroleum products must not be allowed to enter into or be placed where they may be washed from the Project site by rainfall or runoff into waters of the state. When operations are completed, any excess material must be removed from the Project work area and any areas adjacent to the work area where such material may be transported into waters of the state.
7. The Applicant must immediately notify Water Board staff by telephone whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this WQC, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. Pursuant to CWC section 13267(b), a written notification of the adverse condition must be provided to the Water Board within two weeks of occurrence. The written notification must identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to any modifications by Water Board staff, for the remedial actions.
8. An emergency spill kit must be at the Project site at all times.
9. The Applicant must permit Water Board staff or its authorized representative upon presentation of credentials:
  - a. Entry onto Project premises, including all areas on which Project activities are located or in which records are kept.
  - b. Access to copy any record required to be kept under the terms and conditions of this WQC.
  - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this WQC.
10. The Applicant must prevent the introduction or spread of noxious/invasive weeds and other aquatic organisms within the Project and staging areas. These measures may include and are not limited to the treatment of onsite infestations, the cleaning of all equipment and gear prior to use, and the use of weed-free erosion control materials.

## **Enforcement**

1. In the event of any violation or threatened violation of the conditions of this WQC, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of CWA section 401(d), the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this WQC.
2. In response to a suspected violation of any condition of this WQC, the State Water Board or the Water Board may require the holder of any permit or license subject to this WQC to furnish, under penalty of perjury, any technical or monitoring report the State Water Board or Water Board deems appropriate, provided that the burden, including costs, of the reports must be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
3. In response to any violation of the conditions of this WQC, the Water Board may add to or modify the conditions of this WQC as appropriate to ensure compliance.

## **Section 401 Water Quality Certification Requirements Granted**

I hereby issue this WQC certifying that any discharge from the referenced Project will comply with the applicable provisions of CWA sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards), and with other applicable requirements of state law. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this WQC.

Except insofar as may be modified by any preceding conditions, all WQC actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's Project description and the terms specified in this WQC, and (b) compliance with all applicable requirements of the Basin Plan.

We look forward to working with you in your efforts to protect water quality. Please contact Elizabeth van Diepen at [Elizabeth.vandiepen@waterboards.ca.gov](mailto:Elizabeth.vandiepen@waterboards.ca.gov) (530-542-5492) or Alan Miller at [alan.miller@waterboards.ca.gov](mailto:alan.miller@waterboards.ca.gov) (530-542-5430) if you have any questions or comments regarding this permit.



Electronic document submittal is required. Please send your comments or documents to the Water Board's email address at [Lahontan@waterboards.ca.gov](mailto:Lahontan@waterboards.ca.gov) and include your WDID No. and Project/Facility Name in the Subject Line.

PATTY Z. KOUYOUMDJIAN  
EXECUTIVE OFFICER

Enclosure: CEQA Notice of Exemption

cc: Gavin Ball, Consulting Land Use Planner  
(via email at [gavinball@ltol.com](mailto:gavinball@ltol.com))  
Joe Morgan, US Environmental Protection Agency, Region 9  
(via email at [morgan.joseph@epa.gov](mailto:morgan.joseph@epa.gov))  
Bill Orme, State Water Resources Control Board, Division of Water Quality  
(via email at [Stateboard401@waterboards.ca.gov](mailto:Stateboard401@waterboards.ca.gov))  
Krystal Bell, U.S. Army Corps of Engineers, Sacramento District  
(via email at [Krystal.L.Bell@usace.army.mil](mailto:Krystal.L.Bell@usace.army.mil))  
Ninette Lee, California State Lands Commission  
(via email at [ninette\\_lee@slc.ca.gov](mailto:ninette_lee@slc.ca.gov))  
Tanya Sheya, California Department of Fish and Wildlife  
(via email at [Tanya.Sheya@wildlife.ca.gov](mailto:Tanya.Sheya@wildlife.ca.gov))